



United States District Court  
for the Central District of California

Water, Inc.

Plaintiff(s),

v.

Everpure, Inc., et. al.

Defendant(s).

CASE NO. W08-218-ABC(ssx)

ORDER RE: CONFERENCE:

1. PRETRIAL CONFERENCE PURSUANT TO F.R. CIV. P. 16 and 26; AND LOCAL RULE 26
2. MOTIONS & EX PARTE APPLICATIONS
3. EFILING - COURTESY COPIES

This action has been assigned to the calendar of Judge Audrey B. Collins, Courtroom 680, Roybal Federal Building, 255 East Temple Street, Los Angeles, CA 90012.

The responsibility for the progress of litigation in the Federal Courts falls not only upon the attorneys in the action, but upon the Court as well. In order "to secure the just, speedy, and inexpensive determination of every action," (Fed. R. Civ. P. 1.) all counsel are hereby ordered to familiarize themselves with the Federal Rules of Civil Procedure and the Local Rules of the Central District of California.

**NOTICE: Efilng is mandatory as of January 2, 2008. Two sets of courtesy copies must be delivered directly to chambers by 12:00 p.m. (noon) of the court day following the efilng of any document.**

1. **SCHEDULING CONFERENCE**

This matter is set for a Pretrial/Scheduling Conference on Aug. 18, at 10:00 a.m.  
2008

- 1 (a) The lead trial attorney must attend the Scheduling Conference, unless excused for  
2 good cause shown in advance of the Scheduling Conference.
- 3 (b) The conference will be held pursuant to F. R. Civ. P. 16, 26(f), and Local Rule 26-  
4 1. The parties are reminded of their obligations to disclose information and  
5 confer on a discovery plan not later than 21 days prior to the scheduling  
6 conference and report to the Court by filing a Joint Rule 26(f) Report not later  
7 than 14 days after they confer as required by F. R. Civ. P. 26 and the Local Rules  
8 of this Court. Failure to comply or to cooperate in the preparation of the Joint  
9 Rule 26(f) Report may lead to the imposition of sanctions.
- 10 (c) Counsel should begin to conduct discovery before the Scheduling Conference.  
11 This will expedite settlement discussions and early motion work on the litigation.
- 12 (d) If lead counsel for any party has his or her office outside Los Angeles County, the  
13 Court will normally be willing to conduct the scheduling conference by  
14 conference telephone call. *Counsel requesting the telephonic conference shall*  
15 *contact the court clerk at (213) 894-3759 for approval.* Opposing counsel who  
16 are outside of Los Angeles County may also participate by telephone. Counsel  
17 requesting the telephonic will be responsible for originating the conference call to  
18 the court after assembling all parties on the line. Counsel may be required to  
19 remain available on the telephone until the case is called.

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21 2. **FILING AND CONTENTS OF THE JOINT RULE 26(F) REPORT**

22

23 *The Joint Rule 26(f) Report shall be filed not later than one week before the scheduling*  
24 *conference.* Plaintiff is responsible for drafting the report, but it shall be submitted and signed  
25 jointly. The Joint Rule 26(f) Report shall include the following:

- 26 (a) A short statement of the claims, counterclaims, and affirmative defenses, not to  
27 exceed three (3) pages.
- 28 (b) A brief description of the key legal issues.

- 1 (c) A discussion of the likelihood of motions seeking to add other parties or claims,
- 2 file amended pleadings, or transfer venue.
- 3 (d) A discussion of discovery and experts pursuant to Rule 26(f).
- 4 (e) A description of any issues which may be resolved by motions for summary
- 5 judgment.
- 6 (f) A brief description of settlement discussions to date, and the settlement selection
- 7 pursuant to Local Rule 16.
- 8 (g) A realistic time estimate required for trial and whether it will be by jury or court.
- 9 (h) Proposed dates for:
  - 10 ▶ Motion and Claims cut-off;
  - 11 ▶ Discovery cut-off;
  - 12 ▶ Motion cut-off;
  - 13 ▶ Final Pre-Trial Conference; and
  - 14 ▶ Jury or Court trial.

15 *Note: All motion cut-off and pre-trial conference dates are on Mondays. Trials*  
16 *are always set on Tuesdays.*

- 17 (i) Any other matters affecting the status of the case.
- 18 (j) **ERISA cases.** Note that the court will not hear motions for summary judgment  
19 (See Kearney v. Standard Insurance Co., 175 F.3d 1084 (1999)) but will hear  
20 motions to determine the standard of review and the scope of the administrative  
21 record. There will be a court trial (usually confined to oral argument) on the  
22 administrative record, along with any other expanded testimony.
- 23 (k) **Patent Cases.** Counsel should propose dates for hearings on claim construction  
24 and Markman hearings.

(l) **Consent to Magistrate Judge.** The parties may consent to have a magistrate judge preside over the entire case, including trial. The parties are free to select from amongst all the magistrate judges available for this purpose, not just the magistrate judge assigned to this case. (Please consult the court's website for the list of Magistrate Judges.)

### 3. MOTIONS

In motion matters, counsel should note the timing and service requirements of Local Rules 6 and 7 including:

- a. Local Rule 6-1: If mailed, Notice of Motion shall be served not later than twenty-four (24) calendar days before the Motion Day designated in the notice. If served personally, the Notice of Motion shall be served not later than twenty-one (21) days before the Motion Day designated in the notice.
- b. Local Rule 7-3: Pre-Filing Conference of Counsel. Counsel should be familiar with this rule, which requires a pre-filing meeting to discuss the substance and potential resolution of non-discovery motions. Note that counsel for the moving party must notify the court in any notice of motion that the meeting took place.
- c. Local Rule 7: Note the requirements included in L.R. 7-4. The Notice of Motion shall include a concise statement of the relief or court action the movant seeks.
- d. Local Rule 7-9: Opposing papers shall be served upon other parties and filed with the Clerk not later than fourteen (14) days before the hearing date;

e. Local Rule 7-10: Reply papers, if any, shall be served and filed not later than the seventh calendar date (not excluding Saturdays, Sundays, and holidays) before the motion hearing date; and

**f. Courtesy Copies:** Counsel shall deliver 2 sets of conformed courtesy copies of all motions, oppositions, and replies directly to the courtesy box outside the chambers door by 12:00 p.m. (noon) of the court day following efilng of all documents.

Adherence to the timing requirements of all Local Rules is mandatory for proper chambers preparation of motion matters.

#### 4. **DISCOVERY**

This court refers all discovery motions and disputes to the magistrate judge assigned to the case. Note that the discovery cut-off date means the last day by which depositions must be completed and responses to all previously served written discovery must be provided. (See further discussion in court's Civil Jury and Court Trial Orders.)

## 5. EX PARTE APPLICATIONS

Ex parte applications are considered on the papers and are not usually set for hearing. Ex parte applications are to be reserved solely for extraordinary relief. [This court may impose sanctions for misuse of ex parte applications. See Local Rule 7-19 and In re Intermagnetics America, Inc., 101 B.R. 191 (Bankr. C.D. Cal. 1989).] Counsel are ordered to read and comply with the requirement of Mission Power Engineering Co. v. Cont. Cas. Co., 883 F. Supp. 488 (C.D. Cal. 1995) before filing an ex parte application with this court.

**Counsel must comply with Local Rule 7-19 and 7-19.1. Applications which fail to conform with these rules, including a statement of opposing counsel's position, will not be considered. The moving party shall serve the opposing party**

1 by facsimile transmission. Opposing papers must be filed not later than twenty-  
2 four hours following such facsimile service. Counsel must inform the Courtroom  
3 Deputy Clerk, Daphne Alex, (213) 894-3759, if the ex parte application will not be  
4 opposed. Counsel must deliver a conformed courtesy copy of the ex parte  
5 application and opposing papers to chambers.

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7 **6. SETTLEMENT PROCEDURE**

8 A settlement procedure appropriate to the particular case will be used in every civil  
9 action. Counsel must be familiar with the procedures and timing mandated by Local Rule 16-  
10 14. A Notice of Settlement Selection Procedure, signed by counsel for both sides, shall be filed  
11 no later than 10 days after entry of this order. Frank discussion of settlement options should  
12 begin now.

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14 **7. NOTICE TO BE PROVIDED BY COUNSEL**

15 Plaintiff's counsel or, if plaintiff is appearing *pro se*, defendant's counsel, shall provide  
16 this Order to any parties who first appear after the date of this Order and to parties who are  
17 known to exist but have not yet entered appearances.

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19 **8. COURTESY COPIES**

20 **Counsel should provide 2 sets of courtesy copies of all motions,  
21 oppositions, and replies in motion matters directly to the courtesy box outside  
22 the chambers door by 12:00p.m. (noon) of the court day following the efiling of  
23 any document.**

1 9. **COURT'S WEBSITE**

2 Copies of this and all other orders of this Court that may become applicable to this case  
3 are available on the Central District of California website, at "www.cacd.uscourts.gov," under  
4 Judge's Requirements. Copies of the Local Rules are available on the website.<sup>1</sup>

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6 IT IS SO ORDERED.  
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8 Dated: 6-19-08

*Audrey B. Collins*

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10 AUDREY B. COLLINS  
11 United States District Judge

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28 <sup>1</sup> Local Rules may be purchased from the following:

Los Angeles Daily Journal  
915 East First Street  
Los Angeles, CA 90012

West Publishing Company  
50 West Kellogg Boulevard  
St. Paul, MN 55164-9979

Metropolitan News  
210 South Spring Street  
Los Angeles, CA 90012